IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5594 OF 2005

Shri Babusha Laxman Temgire & Anr. ..Petitioners.

Versus

Shri Suresh Maruti Khebade & Ors. ..Respondents.

Mr.S.G.Page with S.R. Page for the Petitioners.

CORAM : S. A. BOBDE, J.

DATED : 30TH AUGUST, 2005.

P.C.:

1. The petitioner has challenged the order/judgment of Additional Commissioner dated 30th June, 2005 by which the order of the Additional Collector is set aside. As a result thereof, the mutation entry number 570 is set aside. The reason given by the Additional Commissioner that a sale deed on the basis of which the mutation entry No. 570 was taken is the subject to the out-come of the civil suit No. 190/1999, which is pending. It is true that since the suit was pending, the observation of the Additional Commissioner that the sale deed is not

"legal" could not have been made since obviously that authority vests with the civil court. That observation must be, therefore, treated as tentative. In any case the finding of the Additional Commissioner that till the decision of the civil suit the mutation entry cannot be taken, is correct in law. It is settled law that the orders of the revenue authorities in regard to the record of rights, do not confer or divest title or possession in the property.

2. In the circumstances, the petitioner shall be at liberty to apply for appropriate mutation in the revenue record depending on the result of civil suit No 190/1999. In this view of the matter, there is no reason to interfere.

3. The petition is, therefore, dismissed.

DT.30.08.05 (S.A.BOBDE,J)

.....